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GEOGRAPHIC INTELLIGENCE MEMORANDUM

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THE SHATT AL 'ARAB DISPUTE



CENTRAL INTELLIGENCE AGENCY
OFFICE OF RESEARCH AND REPORTS

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The underlying factor in the current dispute between Iran and Iraq is a series of treaties that have the effect of requiring Iranian shipping to pass through Iraqi territorial waters. Between the Persian Gulf and a point a few miles north of Khorramshahr the Iraq-Iran border runs along the low water mark on the Iranian shore of the Shatt al Arab except for two short stretches opposite the Iranian ports of Khorramshahr and Abadan, where it follows the main channel (thalweg), leaving these ports in Iranian waters. The boundary is based on the Erzerum Treaty of 1847 and on the results of a 1914 Boundary Protocol, which placed the line at low water on the Iranian shore. The results denied the thalweg principal, for which Iran argues, in favor of the stand that Iraq possesses no access to the sea other than the Shatt, whereas Iran has a long coastline. Controversy over the 1914 decision continued until 4 July 1937, when an agreement was reached granting Iran a strip of water that lies between the Iranian bank and the thalweg opposite Abadan and extends 4 miles downstream from Abadan. The short sector of the boundary that in similar fashion follows the thalweg opposite Khorramshahr was established by the Treaty of 1847. The Treaty of 1937 authorized merchant ships of all countries to use the Shatt on equal terms and declared it open to both Iraqi and Iranian warships. The treaty also provided for the conclusion of a Convention (agreement) concerning all questions relating to navigation on the Shatt. The Convention has never been concluded, primarily because of Iraq's unwillingness to reach an agreement. Until such time as the Convention is concluded, Iraq claims control over all matters pertaining to the use of the river with which the Convention is to deal. In effect, Iraq legally controls the Shatt al Arab, a function exercised through the Basra Port Authority.

Regulations of the Basra Port Authority (BPA), which govern traffic on the Shatt, require that pilots of all seagoing vessels operating in Iraqi waters be licensed by BPA. It has been customary for vessels to fly the Iraqi flag when in Iraqi waters and to replace it with the Iranian flag when entering Iranian waters, but on occasion ships bound for Iranian ports have flown the Iranian flag throughout their passage of the Shatt. In practice, Iraqi authorities have maintained the navigational aids and collected fees from ships using Iraqi services. Until the fall of 1958, there was little controversy over practical procedures and little apparent concern over the flag issue. Much of the heat of the present contention has been generated by Iraqi revocation of many pilot licenses, Iran's order that vessels using Iranian ports should fly the Iranian flag at all times, and Iran's defiance of BPA regulations in sending ships under Iranian flag down the Shatt without licensed pilots. An additional issue involves Iran's use of the port of Khosrowabad, whose jetties extend beyond low water into waters under Iraqi jurisdiction.

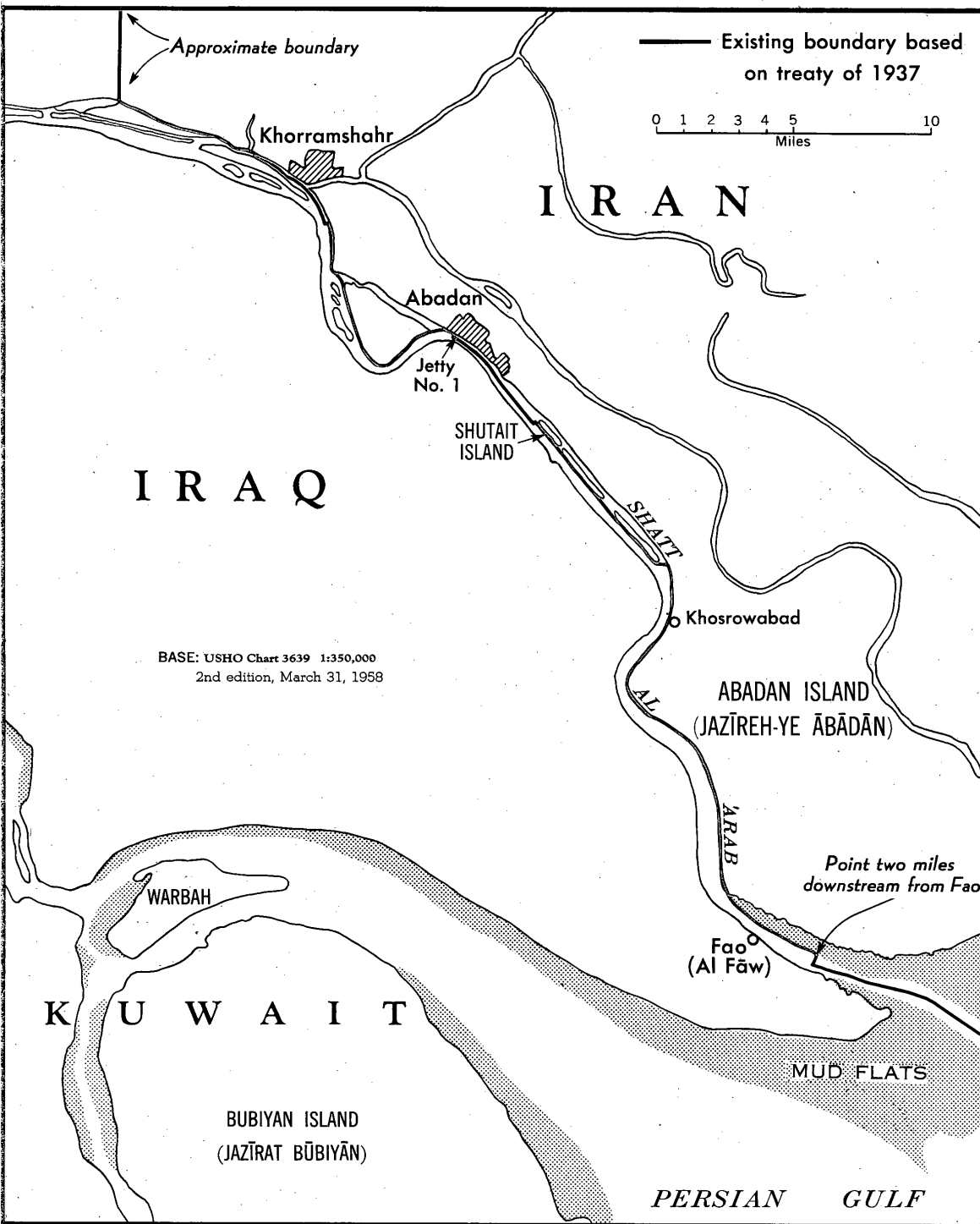
So long as the two countries cooperated in Bagdad Pact matters and the residual British influence imparted stability to Iraq, Iran was not too unhappy with the arrangement. However, the picture changed abruptly when Iraq became highly volatile following the revolution of July 1958. Beneath the recent claims, accusations, incidents, and troop movements lies Iran's fear of the strangle hold that Iraq could exert on its commerce. Approximately 40 percent of Iran's dry-cargo trade passes through the port of Khorramshahr, and all of her refined-petroleum exports pass down the Shatt al Arab from Abadan. Furthermore, Iran considers that the presence of Bloc technicians at Basra constitutes a potential threat. Coming in addition to diplomatic pressures from USSR, the total impact of the Shatt al Arab issue has sorely wounded Iranian national pride. On the Iraqi side, Qassim found this issue a convenient one with which to divert public attention from domestic turmoil and to improve his position as a champion of Iraq.

Iran wants a voice in the control of the Shatt and has used the flag issue, and other relatively insignificant controversies, to bring pressure for a new convention on the Shatt. Iran has insisted upon the right to require vessels proceeding to Iranian ports to fly the Iranian flag, the right to use the port of Khosrowabad, and the freedom for small craft to navigate the Shatt without search. In addition, Iran demands a joint port authority and an equal division of fees collected in the Shatt. Iran has called for resumption of arbitration of the boundary settlements, which it maintains were concluded "under duress," and accuses Iraq of failing to honor a 1957 agreement to negotiate joint control of the Shatt through the medium of a Swedish arbitrator. Iraq retorts that Iran has, in violation of international law, consistently exceeded the rights granted to it in 1937 and is, in fact, responsible for the current situation.

Resolution of the present controversy rests upon the acceptance by Iran and Iraq of arbitration by experts in international law. A lasting solution must guarantee the rights of users beyond transitory good intentions and beyond the formal provisions contained in the 1937 treaty.

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